

2004

TOWN OF SHARON



FALL SPECIAL TOWN MEETING WARRANT

with Report and Recommendations of the Finance Committee

SPECIAL TOWN MEETING

MONDAY, OCTOBER 18, 2004

7:00 P.M.

Meeting at Sharon High School

Arthur E. Collins Auditorium

Sharon High School, Pond Street

PLEASE BRING THIS REPORT TO THE MEETING

Registered voters of Sharon planning to attend this meeting
needing an ALS (American Sign Language) interpreter are
urged to call the Selectmen's Office -- 781-784-1515

YOU MUST BE A REGISTERED VOTER TO

ATTEND THIS MEETING

SPECIAL TOWN MEETING



OPEN WARRANT MEETING

Monday, October 4, 2004

7:30 P.M.

**Sharon Town Offices
Hearing Room
(Lower Level)**

INFORMAL DISCUSSION OF SPECIAL ARTICLES

WARRANT INTRODUCTION

The Fall Town Meeting will discuss and vote on 17 articles. The original intention of convening a second Town Meeting annually was for the consideration of non-budgetary articles. The Planning Board has sponsored four such articles. The other 13 articles deal with various off-cycle issues ranging from the interesting question of how to handle excess appropriation from the last Town Meeting to the ongoing struggles to resolve the fate of the Wilber School, Rattlesnake Hill and the Senior Center.

Article 1 will ask the Town's voters to decide what to do with an appropriation for the School Department that will no longer be needed. This arises from greater than anticipated State funding for special education tuitions for which an additional \$550,000 had been appropriated last spring. Typically the Town must deal with insufficient funds, so this "problem" is a welcome one.

We will also deliberate on the direction to take on the creation of a Senior Center. The Council on Aging would like to revisit the plans to place a free-standing Senior Center at the Sacred Heart site now that it appears the reuse of the Wilber School for solely municipal purposes will not be pursued. As for the Wilber School, our Board of Selectmen wishes to combine funds from previous feasibility studies so that a new committee can address new approaches for the property such as mixed-use opportunities.

Rattlesnake Hill is also back on the agenda. This initiative simply looks to provide additional flexibility to the Conservation Commission now that it appears the Commonwealth will not match our previously approved funds. Adding flexibility doesn't mean that the Town will be asked for additional funds but rather the Conservation Commission would like to pursue other avenues to identify matching funds. The previously passed article on this matter was only targeting State funds.

Because of the shortened schedule encompassing the summer vacation months, many boards and committees have struggled to provide final figures and information for their initiatives. For that reason, the Finance Committee regrettably will have recommendations for only 11 of the 17 articles. We will make every attempt to provide additional information as it becomes available, via the local press, the televised Finance Committee meetings and the Town's web page (www.townofsharon.net).

THE FINANCE COMMITTEE

Paul Pietal, Chair; Charles Goodman and David Fixler, Vice-Chairs; Ira Miller, Clerk; Michael Feldman, Brian Fitzgerald, Kenneth Goldberg, David Hearne, Jonathan Hitter, Gloria Rose, Gregory Sydney

FALL SPECIAL TOWN MEETING

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

To a Constable of the Town of Sharon, Greeting:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Sharon qualified to vote in elections and Town affairs to meet at the Arthur E. Collins Auditorium at the Sharon High School on Pond Street in said Sharon on Monday, the 18th of October 2004, at 7:00 P.M., and there to act on the following articles:

ARTICLE 1

To see if the Town will vote to transfer a sum of money from the School Department Account to the Stabilization Fund, or for other municipal purposes; or to take any other action relative thereto.

BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

This article intends to address an appropriation approved for the School Department at the Annual Town Meeting in May of 2004 that is no longer needed. During the Annual Town Meeting, the appropriation approved for the School Department included an additional \$550,000 to supplement the cost of special education tuitions. During the planning process for the budgets last year, it was forecasted that the level of State funding for the special education tuitions would be significantly deficient. In order to properly fund these tuitions without severely impacting the rest of the educational programs, the voters at the Town Meeting approved the additional \$550,000 with the understanding that if the State did fund the tuition account properly, the appropriation would be returned to the Town.

The level of State funding for the special education tuitions has been projected to cover most if not all of the \$550,000 deficiency that was forecast last winter. This leaves the Town in the desirable position of needing to determine how to utilize the extra capacity in the appropriation.

Two main uses for the \$550,000 have been proposed: supplementing the Town's stabilization fund and/or reducing the tax rate. The Finance Committee has deliberated extensively on how best to approach this issue. There is some interest in supplementing the small stabilization fund the Town currently maintains. A stabilization fund would allow the Town to better weather years in which needs outstrip funding sources. However, the Finance Committee also feels that a stabilization fund should be built through careful planning and financial discipline rather than by fortuitous financial windfall. When additional capacity in an annual budget is possible, fiscal discipline is needed to restrain individual department budgets and allow for stabilization fund contributions.

To that end, the Finance Committee recommends reducing the appropriation to the School Department by an amount equal to the special education funds that the Town receives from the State (but not in excess of \$550,000). The intended purpose is that this amount would not be raised in taxes. This would be accomplished during the annual setting of the tax rate in November, subsequent to the Fall Town Meeting.

The Finance Committee recommends reducing the overall tax burden by up to \$550,000. The vote was 9-0 in favor of this initiative.

ARTICLE 2

To see if the Town will vote to raise and appropriate a sum of money for remodeling, reconstructing, and for making extraordinary repairs to the Community Center; and to determine whether this appropriation shall be raised by borrowing or otherwise. And in addition, to determine whether any funds received by the Town as a result of insurance claims regarding the Community Center shall be accepted and applied to an account identified as "Reserve for Appropriation Account – Community Center" and may be transferred from said account and expended for the above purposes; or to take any other action relative thereto.

BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

Acceptance of this article will appropriate funds necessary for design and construction work for renovations at the Community Center. Recent inspection of the integrity of the building has uncovered structural roof support failures. A preliminary structural analysis by an independent engineer has concluded that the failures were most likely due to excessive snow loads some time in the recent past.

In order for a complete structural analysis of the building to take place, ceilings throughout the building have already been demolished, necessitating the relocation of building tenants ranging from the Council on Aging and Sharon Cable Television to Sports Club and Karate classes. The building is not currently available for use by town residents.

This article would fund a renovation of the Community Center. The money would pay for an analysis of current and future needs for this facility, design and construction documents, and costs of actual construction and construction management services. Additional revenue is expected to come from insurance payments. This project would be managed by the Sharon Standing Building Committee.

The final proposal and cost for this project were not available before the warrant was printed. The Finance Committee will make its recommendation at Town Meeting.

ARTICLE 3

\$13,000

To see if the Town will vote to raise and appropriate a sum of money for the cost of engaging engineers, architects, and/or consultants, for the purpose of preparing design plans and specifications, to include contract documents and estimates for the cost of construction and/or site work, and/or to supplement existing design plans and/or architectural plans for a Senior Center for the Council on Aging to be located at the former Sacred Heart property; and to determine whether this appropriation shall be raised by borrowing or otherwise; or to take any other action relative thereto.

COUNCIL ON AGING

FINANCE COMMITTEE RECOMMENDATION:

Approval of this article would allow the Council on Aging to reengage an architect previously contracted for design and feasibility services in the year 2000. The intent will be to update the existing feasibility study and plans for a free-standing Senior Center at the Sacred Heart site.

At the Town Election in 2001, the initiative to fund construction of a free-standing Senior Center was defeated amidst numerous other overrides and debt exclusions. Subsequently, the Council on Aging continued in their effort towards construction of a Senior Center as part of the Wilber School Renovation Project. That project had hoped to integrate the Senior Center with a Town Hall and Library facility. The Selectmen have decided not to pursue such a project in the foreseeable future because of its excessive cost. The Council on Aging believes, and the Finance Committee agrees, that the needs of the senior population in Sharon cannot wait any longer. The Council on Aging has decided to pursue a more cost-effective and fiscally conservative approach by updating plans and specifications for what is essentially the same free-standing Senior Center they offered for consideration in 2001.

This appropriation will provide the Council on Aging with a sufficient level of detailed information to allow for the presentation of an Article at Spring Town Meeting that would seek funding for the complete design and construction of a Senior Center at the Sacred Heart site. The present appropriation would not affect the tax rate. It is simply the reallocation of appropriated but unused money from 2001 back to the Council on Aging, which had subsequently been allocated for use in the design phase of the Wilber renovation project.

The Finance Committee recommends approval. Vote 9 - 0 - 0

ARTICLE 4

To see if the Town will vote to transfer certain sums of money to a single account to be expended by the Board of Selectmen and/or the Standing Building Committee for the purpose of hiring engineers, architects and/or consultants to study the feasibility and/or supplement existing feasibility studies and architectural reports of proposed uses for the Wilber School building, including but not limited to non-governmental uses, uses resulting from public-private partnerships, or use as a municipal building. The aforesaid sums of money consist of the balances remaining from the funds voted for feasibility studies of proposed uses for the Wilber

School building by Town Meeting pursuant to Article 19 of the Annual Town Meeting of 1999 and Article 5 of the Special Town Meeting of November 2000.

Said feasibility studies shall be undertaken in accordance with the "Guidelines for Feasibility Studies" adopted by the Standing Building Committee, as the same may be from time to time amended, and shall include, without limitation, design plans and specifications, to include estimates of probable construction costs, for the renovation, alteration, rehabilitation or remodeling of the existing structure and to prepare application(s) for grant funds therefore.

or to take any other action relative thereto.

BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

At the May 2004 Town Meeting, the Finance Committee, and a majority of the Town Meeting attendees, expressed serious concern that the existing plan for the re-use of the Wilber School, a municipal building housing town hall, the library and a senior center with a projected construction cost in excess of twenty million dollars, is simply not feasible in today's economic climate. As a result, the Selectmen were encouraged to devise alternative plans for the re-use of this site. In response, the current Board of Selectmen has agreed to form a new Wilber School re-use committee. The interviews for this committee have been completed and the new members should be selected before the Fall Town Meeting.

Approval of this Article will combine outstanding balances from prior feasibility studies relating to the re-use of the Wilber School and allow the Board of Selectmen and/or the Standing Building Committee, acting in coordination with the new Wilber School re-use committee, the opportunity to spend up to \$50,000 for the purpose of engaging consultants, engineers or architects to consider alternative public and private uses for the Wilber School Building.

The Finance Committee vote was 6-3 in favor.

ARTICLE 5

To see if the Town will vote to raise and appropriate a sum of money for the purpose of entering into a contract, and to authorize the Selectmen to negotiate the terms of such a contract, with the Norfolk County Regional Fire and Rescue Dispatch Center for all "911" and radio dispatch services; and to determine whether this appropriation shall be raised by borrowing or otherwise; or to take any other action relative thereto.

BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

This article was intended to raise and appropriate a sum of money to allow the Town to join a regional fire and rescue dispatch service under the auspices of Norfolk County. Norfolk County will not pursue such a system at this time.

The Finance Committee recommends indefinite postponement by a vote of 9-0.

ARTICLE 6

To see if the Town will vote to add a sum of money to the appropriation voted in Article Five of the May 3, 2004, Annual Town Meeting for the Recreation Department; or to take any other action relative thereto.

BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

Approval of this article would authorize the Town to spend \$25,000 to supplement the funding of the Teen Center. The Teen Center is a private organization which provides a place for middle school aged teens to meet, play games, watch TV, etc. and has been functioning for 2 years with donations and contributions. A recent reduction in donations has left the Teen Center with insufficient funds to meet its projected budget for the coming year.

The Finance Committee recognizes the merits of a teen center but does not believe that direct public appropriations should fund private organizations regardless of the magnitude of dollars involved and regardless of the good intentions. There are many other needs in almost all town departments for which additional appropriations would have significant benefits. Additionally, other private organizations which receive indirect support such as use of Town fields for the youth sports programs illustrate a collaborative approach that has proven acceptable. In that fashion, the Finance Committee strongly encourages the Teen Center to work with our Town officials to find accommodations that would relieve the Teen Center of the burden of the rent they pay for space in the Town Center.

The Finance Committee recommends indefinite postponement. Vote: 7-3-0.

ARTICLE 7

To see if the Town will vote to modify the action taken under Article 1 of the December, 2003 Special Town Meeting which authorized, subject to the subsequent successful ballot vote, that the sum of \$7,500,000.00 be added to the Conservation Commission Land Acquisition Account so that the Commission may acquire by gift or purchase, in the name of the Town for conservation purposes, the fee in and/or a Conservation Restriction on the following parcel of land:

The property known as Rattlesnake Hill, situated in Sharon, Massachusetts, located on the easterly side of Mountain Street, consisting of 339.40 acres +/- and containing Lots AA, 6, 7, 15, 16, 17, 21, 22, 23, 24, 25 and 26 as shown on a "Plan of Land, Mountain Street in Sharon, Mass.," dated May 6, 1996, Youngquist, James & Associates, Inc., recorded in the Norfolk County Registry of Deeds on May 30, 1996, in Plan Book 439,

Plan No. 293, or as the same may be more particularly described.

And further provided that if the Town proceeds with a proposed above-ground water storage tank, standpipe, and water pressure system, or a fire department substation, on a portion of the property consisting of not more than two acres, the location and exact size of said portion as to be determined by the Board of Selectmen and the Conservation Commission, such portion of the property shall be excluded from the conservation restrictions placed upon the acquired land.

The purposes of the proposed modifications would be:

(1) to delete the following provision in the prior vote:

“Provided, however, that any such acquisition by purchase shall not be made, unless an amount of money is made available by the Commonwealth of Massachusetts, or such other third party as may be available, to provide the balance of the purchase price for the aforesaid acquisition.”

so that the Town would be allowed to proceed with the acquisition of the property regardless of whether such additional funds are received; and

(2) to permit the acquisition of a portion, as opposed to the entirety, of said parcel of land;

or to take any other action relative thereto.

CONSERVATION COMMISSION/BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

This article is intended to provide some additional flexibility to the Conservation Commission and the Board of Selectmen in their attempts to purchase the property known as Rattlesnake Hill.

The voters at the December 2003 Town Meeting approved a measure to allow the Town to borrow \$7.5 million with the assumption that the Commonwealth might match these funds and allow the Town to purchase the property. A subsequent vote at a Town election also approved the \$7.5 million borrowing. Unfortunately, the Commonwealth does not appear to be willing to fund such land acquisitions at this time.

By adjusting the action approved at the December 2003 Town Meeting, the Conservation Commission seeks additional flexibility in structuring a purchase of the property, whether in its entirety or substantially all of it. This initiative would allow the pursuit of alternative plans to partner with agencies not directly related to State government. This initiative does NOT attempt to raise additional funds through taxes or to increase the percentage of Sharon's commitment to the purchase of this entire property.

The Finance Committee recommends approval by a vote of 8-0-1.

ARTICLE 8

To see if the Town will vote to amend its General By-Laws by amending Article 34, Demolition of Historically Significant Buildings, by amending Paragraph 6 of the Subsection entitled "Procedure" by deleting the word "six" and substituting therefor the word "twelve", the amended paragraphs to read as follows:

Paragraph 6. Upon a determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably-preserved significant building, the Commission shall so advise the applicant and the Building Inspector, and no demolition permit may be issued until at least twelve months after the date of such determination by the Commission

or to take any other action relative thereto

HISTORICAL COMMISSION

FINANCE COMMITTEE RECOMMENDATION:

This article is intended to provide the Historical Commission additional time after the request for a demolition permit to determine the historical significance of the structure. The purpose would be to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate, or restore such buildings rather than demolish them.

The majority of the Finance Committee believes that this step is a reactive approach and would encourage more proactive measures. By analyzing the historical qualities of the homes in Sharon beforehand, it would ensure that properties of historical significance are already under consideration before demolition of such structures becomes an issue. By extending the demolition moratorium to 12 months, the property owners may be unfairly restricted.

The Finance Committee recommends indefinite postponement by a vote of 7-2.

ARTICLE 9

To see if the Town will vote to amend its General By-Laws by amending Article 2, Finance Committee, by adding the following language to Section 4:

"The Finance Committee shall prepare the following schedules, with appropriate input from the Board of Assessors and the School Committee, for inclusion in the warrant of each annual Town Meeting:

1. A comparative computation of the tax rate showing the actual computation for the then-current year and the estimated calculation for the next year;
2. A comparative schedule of receipts and available funds for the same periods as above;

3. A comparative schedule of school income and reimbursements for the same periods as above; and
4. A schedule of reserve fund transfers.”

or to take any other action relative thereto.

BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

This article attempts to formalize several types of information for inclusion in the warrant for the Annual Town Meeting. The types of information requested were once included in the warrant for informational purposes but were discontinued for unknown reasons approximately 20 years ago. The information would assist the voters at the Annual Town Meeting in their deliberation of articles that have budget impact.

The article as written has four items for inclusion in the warrant. Although we support the initiative to provide voters at Town Meeting with as much information as possible to assist in their deliberations, the Finance Committee only has direct control over information required to illustrate the comparative tax rate, schedules of receipts and the activity in the reserve fund. The information pertaining to school income and reimbursements is under direct control of the School Department. For that reason, the Finance Committee believes it is well suited to provide the information for three of the four items listed in the article and will make a motion at Town Meeting to reflect this belief.

The Finance Committee recommends approval with amendments by a vote of 8-0-1.

ARTICLE 10

To see if the Town will vote to amend its General By-Laws by adding a new Article ___, entitled, “Illicit Discharge Detection and Elimination By-Law,” for the purpose of complying with the Town’s obligations under the Federal Clean Water Act and under the Town’s National Pollutant Discharge Elimination System Storm Water Permit, which shall read as follows:

I. AUTHORITY

This By-Law is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Article II of the Massachusetts Constitution and M.G.L. Chapter 43B section 13. The Board of Selectmen is delegated hereby the responsibility and authority to enforce and administer this By-Law. The Board of Selectmen may appoint the Town Engineer or Assistant Town Engineer or such other town employee as the Board of Selectmen may from time-to-time determine and designate in a writing to aid the Board of Selectmen in the enforcement and/or administration of the By-Law.

II. PREAMBLE

In partial fulfillment of the obligations of the Town under the Clean Water Act (33 U.S.C. 1251 & seq.) (the “Act”) and under the Town’s National Pollutant Discharge Elimination System Storm Water Permit, the Town hereby establishes a comprehensive and fair system of regulation of Discharges to the Town’s Municipal Separate Storm Sewer System (sometimes referred to herein as the “MS4”).

III. PURPOSE

The purpose and intent of this By-Law is to:

- a. Protect the Waters of the U.S., as defined in the Act and its implementing Regulations, from uncontrolled Discharges of Storm Water or Discharges of Contaminated Water which have a negative impact on the receiving waters by changing the physical, biological and chemical composition of those waters resulting in an unhealthy environment for aquatic organisms, wildlife and people, and
- b. Reduce Discharges of Contaminated Water into the MS4 and resultant discharges from the MS4 into Waters of the U.S. and improve surface water quality, and
- c. Permit and manage reasonable access to the MS4 to facilitate proper drainage, and
- d. Assure that the Town can continue to fairly and responsibly protect the public health, safety and welfare.

IV. DEFINITIONS

BOARD: The Board of Selectmen and, to the extent delegated and designated, the Town Engineer or Assistant Town Engineer or such other town employee as delegated and designated by the Board of Selectmen.

CONTAMINATED WATER: Water that contains higher levels of Pollutants, including without limitation implied, heavy metals, toxins, oil and grease, solvents, nutrients, viruses and bacteria, than permitted in Waters of the U.S. by the Act and its implementing Regulations.

DIRECT CONNECTION: Any discernible, confined and discrete conveyance including but not limited to any pipe, drain, channel, conduit, tunnel, or swale whether above ground or below ground which directs water into the MS4.

DIRECT CONNECTION LICENSE: A license granted by the Town for the continued maintenance by an Owner of a Direct Connection to the MS4.

DISCHARGE: Any non-naturally occurring addition of water or of Storm Water to the MS4.

DUMPING: An act or omission of any person or entity the proximate result of which is the introduction of a Pollutant into the MS4.

EXEMPTED DISCHARGES: Discharges from the following sources unless in any instance such Discharge would result in a substantial and continuing increase in the level of a Pollutant in the Waters of the U.S.:

1. water line flushing
2. landscape irrigation
3. diverted stream flows
4. rising ground water
5. pumped ground water
6. discharges from potable water sources
7. foundation drains
8. air conditioning condensation
9. irrigation water
10. springs
11. water from crawl space pumps
12. footing drains
13. lawn watering
14. individual residential car washing
15. flows from riparian habitats and wetlands
16. dechlorinated swimming pool discharges (e.g. where the Discharge contains less than 1ppm of chlorine.)
17. street wash water
18. rain run-off from roofs

EXISTING SOURCE: Any building, structure, facility or installation from which there is a flow of Storm Water or Exempted Discharge the construction of which building, structure, facility or installation occurred prior to the promulgation of this By-Law.

ILLICIT CONNECTION: Any drain, conduit, or other conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the MS4.

ILLICIT DISCHARGE: Any Discharge into the MS4 of Contaminated Water, any Discharge of Storm Water from a Direct Connection for which a Direct Connection License is not in force and effect, any Discharge which is not an Exempted Discharge, or any Discharge from an Indirect Connection not in compliance with this By-Law.

INDIRECT CONNECTION: The natural drainage of Storm Water over or under the surface of the ground (whether instigated by human endeavor or not) via gravity into the MS4.

MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4: The Storm Water collection system which is made up of open water courses, swales, ditches, culverts, canals, streams, catch basins and pipes through which the Storm Water flows and the Town Public Ways over which it flows which are owned and operated by the Town for the purpose of collecting or conveying Storm Water to a discharge point.

NEW SOURCE: Any building, structure, facility or installation from which there is or may be a Discharge of Storm Water the construction of which building, structure, facility or installation commenced after adoption of this By-Law.

NPDES PERMIT: The National Pollution Discharge Elimination System Permit issued by the federal Environmental Protection Agency to the Town.

OWNER: The owner of a parcel of land recorded in the Assessor's Office of the Town.

POLLUTANT: Dredged spoil, solid waste, incinerator residue, filter back-wash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rocks, sand, animal or agricultural waste, oil, grease, gasoline or diesel fuel.

PUBLIC WAYS: Any road (including such appurtenances as berms, curbs, drains, catch basins, sewers, water mains, sidewalks and paved and unpaved shoulders within the paper lay-out) to which the public has access and that the Town is responsible for maintaining.

STORM WATER: Rainfall that exceeds the soil's capacity contemporaneously to absorb it and which, instead, runs across the surface of the ground as run-off.

V. PROHIBITIONS

- a. No person or entity shall do or suffer to be done any Dumping into the MS4, including without limitation implied, the placing or emptying into any catch basin or other portal to the MS4, of any Pollutant.
- b. No Owner shall cause an Illicit Discharge to be made to the MS4 whether from a Direct or Indirect Connection.
- c. No Direct Connections whether from a New or Existing Source shall be installed after the Effective Date of this By-Law.
- d. Direct Connections from an Existing Source shall be allowed to continue after the Effective Date provided that:
 - (i) The Owner must disclose the Direct Connection and must within 30 days of the effective date of this By-Law apply for and thereafter be granted a Direct Connection License, and
 - (ii) The Owner must Discharge only Storm Water which is not Contaminated Water via the Direct Connection.
- e. Indirect Connections from Existing Sources shall be allowed provided that:
 - (i) Only Storm Water which is not Contaminated Water is Discharged, or a Discharge constituting an Exempted Discharge occurs, and
 - (ii) The Discharge does not cause safety problems due to icing or flooding of the Public Ways or cause damage to the Town's property.
- f. Indirect Connections from New Sources shall be allowed provided that:
 - (i) Sub-surface infiltration trenches are used which comply with criteria established in the Town's Subdivision Rules and Regulations, and

- (ii) Only Storm Water which is not Contaminated Water is discharged or a Discharge constituting an Exempted Discharge occurs.

VI. PENALTIES FOR VIOLATIONS

- a. Any person or entity which causes or suffers to occur a Dumping shall be subject to a fine of one hundred (\$100.00).
- b. Any Owner who causes or suffers to occur an Illicit Discharge to emanate from his property shall be subject to a fine of one hundred dollars (\$100.00) per day for each day that the Illicit Discharge continues after Notice thereof is given by or at the direction of the Board of Selectmen. This fee may be waived by the Selectmen to allow time for compliance.
- c. Any Owner who allows a Direct Connection to be maintained on his property (whether or not it results in an Illicit Discharge) without applying for and receiving a Direct Connection License from the Town shall be subject to a fine of one hundred dollars (\$100.00) per day for each day that the unlicensed Direct Connection continues after the deadline set for abatement by the Board of Selectmen.

The penalties set out herein may be assessed by the Board of Selectmen and are in addition to and not in substitution for any remedial action the Board of Selectmen may order under the ENFORCEMENT section of this By-Law.

VII. ENFORCEMENT

- a. Violations of Section V of this By-Law may, without limitation, be disposed of through the non-criminal procedure specified in M.G.L. c. 40, §21D.
- b. If an Illicit Discharge or a Dumping occurs or an Illicit Connection is maintained, the Board shall give or cause to be given written notice directed to the Owner of the parcel from which the Illicit Discharge is emanating, or on which the Illicit Connection is maintained, ordering an immediate cessation of any act or condition in violation of this By-Law.
- c. The Board either with such notice or at any reasonable time thereafter may order the Owner or any other person or entity responsible for violating this By-Law to begin and thereafter diligently prosecute to completion, such remediation efforts as the Board in its reasonable discretion may deem appropriate.
- d. If the Board determines that the Illicit Discharge resulted from a Direct Connection to the MS4, the Board shall revoke the Owner's Direct Connection License forthwith. After the Owner has fully completed all remediation ordered by the Board, the Owner may thereafter apply to the Board on the form included herein as Exhibit A and utilizing the procedures from time to time prescribed by the Board, for a new Direct Connection License which the Board shall consider in the same manner as any other new application. A Direct Connection License form is included herein as Exhibit B. The forms set forth in Exhibits A and B are intended to serve as examples and may be changed from time to time at the discretion of the Board.

VIII. APPEALS

Any person or Owner aggrieved by an action of the Board which was neither (i) the assessment of a penalty for which the provisions of M.G.L. c. 40, §21D apply, nor (ii) an action taken by the Board at a meeting of which the aggrieved person or Owner was given notice and was afforded the opportunity to present evidence and argument with a view to causing the Board to modify its earlier action (such action being a "final action") shall, within thirty days of such Board action, request a hearing before the Board at which the aggrieved person or Owner may present evidence and argument concerning final action by the Board. The Board shall hold such hearing within a thirty days following said request and within thirty days thereafter shall either confirm the Board's previous action or order such other final action as it may determine.

A person or Owner aggrieved by a decision of the Board of Selectmen under this By-Law may appeal such decision to the appropriate court of competent jurisdiction.

IX. SEVERABILITY

If any clause, section, or other part of this By-Law shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this By-Law shall not be affected thereby but shall remain in full force and effect.

X. EFFECTIVE DATE

This By-Law shall take effect upon approval by the Office of the Attorney General and as otherwise required by M.G.L. c. 40, §32.

or to take any other action relative thereto.

BOARD OF SELECTMEN

EXHIBIT A

APPLICATION FOR A LICENSE TO MAINTAIN A DIRECT CONNECTION TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OF THE TOWN OF SHARON

1. Owner owns a parcel of land in the Town of Sharon generally known and numbered as _____ and the property is more particularly described in the copy of Owner's deed to the property attached to this Application.

2. On this land is a _____ which connects with the MS4 at _____

(describe physical connection)

, at the location shown on the enclosed map which has been drawn on a scale of one inch equals forty feet and which has been stamped by a Professional Engineer. (Show MS4 to which the Direct Connection is attached on this map as well.)

3. The reason for this Direct Connection is _____

_____.

This Direct Connection was installed on _____.

(Date)

4. Owner requests that the Town issue him a Direct Connection License in order to maintain the above-described physical connection.

Owner covenants that no Contaminated Storm Water is now or will hereafter be discharged from his property to the MS4 via this Direct Connection. Owner further agrees that if the Board of Selectmen determines that Contaminated Storm Water is being discharged from his property via this Direct Connection, Owner will take such remedial action as the Selectmen, in their discretion, may order and, if Owner fails to do so by the deadline set by the Board of Selectmen, Owner gives the Town permission to take such ordered remedial action at Owner's sole cost and expense.

Signature of Owner

Date of Application

EXHIBIT B

**CONDITIONAL LICENSE TO MAINTAIN A DIRECT CONNECTION
TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) OF THE TOWN OF
SHARON**

The Board of Selectmen of the Town of Sharon voted at their meeting held

on _____ to grant a revocable License to _____
(Date) (Owner's Name)

for a Direct Connection as described in the Application which Connection is located at

_____ and which connects to the MS4 as shown on the attached
(street address)

map for the purpose of draining uncontaminated Storm Water or Exempted Water Flows
from the property. Violation of the terms of the Town's Illicit Discharge By-Law will
result in termination of this License. The Town may revoke this License if necessitated
by the terms of its NPDES Permit.

Signature of Chairman, Board of Selectmen

FINANCE COMMITTEE RECOMMENDATION:

Approval of this article will bring the General By Laws of the town of Sharon into Compliance with the Federal Clean Water Act. The intent of the article is to provide the Department of Public Works with detailed information regarding all connections, existing and future, to Sharon's existing storm water sewer system. There are many existing connections varying from sump pumps to swimming pool drains that are not currently shown on sewer system plans. This article compels any resident or business with a connection to the public system to inform the Department of Public Works of its existence. Simply put, in order to comply with the Federal guidelines the town needs to know what is flowing into and out of its sewer system.

The Finance Committee recommends approval. Vote 9 - 0 - 0

ARTICLE 11

To see if the Town will vote to amend its General By-Laws by adding a new Article ___, entitled "Stormwater Discharges Generated By Construction Activity By-Law," for the purpose of complying with the Town's obligations under the Federal Clean Water Act and under the Town's National Pollutant Discharge Elimination System General Permit, which shall read as follows:

I. AUTHORITY

This By-Law is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Article II of the Massachusetts Constitution and M.G.L. Chapter 43B section 13. The Board of Selectmen is delegated hereby the responsibility and authority to enforce and administer this By-Law. The Board of Selectmen may appoint the Stormwater Manager or such other municipal employees as the Board of Selectmen may from time-to-time determine and designate in a writing, to aid the Board of Selectmen in the enforcement and administration of this By-Law.

II. PREAMBLE

In partial fulfillment of the obligations of the Town under the Clean Water Act (33 U.S.C. 1251 & seq.) (the "CWA") and under the Town's National Pollutant Discharge Elimination System General Permit, the Town hereby establishes a comprehensive and fair system of regulation of Storm Water Discharges generated as a result of Construction Activity.

III. PURPOSE

The purpose and intent of this By-Law is to:

- A. Prevent Pollutants caused by Storm Water Discharges from a Construction Site from entering Waters of the U.S.
- B. Minimize Erosion and Sedimentation generated by Construction Activity with

the goal of removing 80% of the average annual load of total suspended solids in Storm Water discharged from a Construction Site.

C. Minimize the volume of Storm Water discharged from a Construction Site with the goal that the post-development peak discharge rate of Storm Water does not exceed the pre-development peak discharge rate.

D. Ensure that Storm Water Management Measures are built as outlined in the Storm Water Pollution Prevention Plan.

E. Ensure that Storm Water Management Measures are continually maintained as outlined in the Storm Water Pollution Prevention Plan.

IV. DEFINITIONS

AGRICULTURE: The normal maintenance or improvement of land in agricultural or aquacultural use as defined by the Massachusetts Wetlands Protect Act (M.G.L. C. 131 s. 40) and its implementing regulations (310 C.M.R. 10).

APPLICANT: That Person who owns the land at the time of the application for a Storm Water Permit and his successors and assigns. An Operator may apply on behalf of the owner if such authorization is in writing and is submitted with the application.

AWARDING AUTHORITY: The Board of Selectmen of the Town of Sharon has authority to exercise the powers granted by this By-Law.

BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of Storm Water Discharges.

CERTIFICATE OF COMPLETION: A certificate issued by the Awarding Authority indicating that Final Site Stabilization has occurred, been inspected and approved by a representative of the Awarding Authority, and as-built plans have been filed with the Awarding Authority.

CONSTRUCTION ACTIVITY: Any activity that causes a change in the position or location of soil, sand, rock, gravel or similar earth material for the purpose of building roads, parking lots, residences, commercial buildings, office buildings, industrial buildings or demolitions.

CONSTRUCTION SITE: The plot of land located within the Town on which the Construction Activity will occur.

DISTURB: Any activity such as clearing, grading and excavating that exposes soil, sand, rock, gravel or similar earth material.

EROSION: The wearing of the land surface by natural or artificial forces such as: wind, water, ice, gravity or vehicular traffic and the subsequent detachment and transportation of soil particles from their origin to another location.

FINAL SITE STABILIZATION: Means that all Construction Activity at the site has been completed and a uniform perennial vegetative cover percentage as required by zoning regulations and native background vegetative cover for the area have been established on all unpaved areas and areas not covered by permanent structures or equivalent permanent stabilization measures.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE: Means a contiguous land area under one ownership on which multiple separate and distinct Construction Activities are occurring under one development plan.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): Means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) owned or operated by the Town designed and used for collecting or conveying Storm Water to an Outfall.

NPDES PERMIT: National Pollution Discharge Elimination System Construction General Permit issued by the Environment Protection Agency to the Applicant.

OPERATOR: The party associated with the Construction Activity that meets either of the following two criteria:

- a. The party who has operational control over construction plans and specifications including the ability to make modifications to those plans and specifications or
- b. The party who has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a Storm Water Pollution Prevention Plan for the site or other permit conditions.

OUTFALL: A point source at which a Municipal Separate Storm Sewer System discharges to Waters of the U.S.

PERMITTEE: The owner of the land on which Construction Activity is proposed who has applied for and received a Storm Water Permit from the Awarding Authority.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such Person.

POLLUTANTS: Include without limitation the following: Dredged spoil, solid waste, incinerator residue, filter back-wash, sewage, garbage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rocks, sand, animal or agricultural waste, oil, grease, gasoline or diesel fuel.

SEDIMENTATION: The process or act of depositing mineral or organic soil material in Storm Water as a result of Erosion.

STORM WATER: Rainfall and snow melt that exceeds the soil's capacity contemporaneously to absorb it and which, instead, runs across the surface of the ground as run-off.

STORM WATER DISCHARGES: Storm Water that runs off from the Construction Site into the MS4 or otherwise into Waters of the U.S.

STORM WATER MANAGEMENT MEASURES: Infrastructure improvements that are constructed or installed during Construction Activity to prevent Pollutants from entering Storm Water Discharges or to reduce the quantity of Storm Water Discharges that will occur after Construction Activity has been completed. Examples include but are not limited to: on-site filtration, flow attenuation by vegetation or natural depressions, outfall velocity dissipation devices, retention structures and artificial wetlands, and water quality detention structures.

STORM WATER MANAGER: The Town Engineer or Assistant Town Engineer will serve in this capacity.

STORM WATER PERMIT: The permit issued by the Awarding Authority to the Applicant which allows Construction Activity to occur as outlined by the Applicant in its application and Storm Water Pollution Prevention Plan.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): That plan required of all Applicants in which they outline the Erosion and Sedimentation BMPs they will use, the BMPs they will use to control wastes generated on the Construction Site, the Storm Water Management Measures they will construct and their plan for long-term maintenance of these measures.

WATERS OF THE US.: These include:

- a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- b. All interstate waters including interstate wetlands;
- c. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 1. That are or could be used by interstate or foreign travelers for recreational or other purposes;
 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 3. That are used or could be used for industrial purposes by industries in interstate Commerce;
- d. All impoundments of waters otherwise defined as waters of the United States under this definition;

- e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- f. The territorial sea; and
- g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

V. PROHIBITIONS

A. No Construction Activity which Disturbs one acre or more of total land area including smaller areas that are part of a Larger Common Plan of Development or Sale shall take place until a Storm Water Permit has been obtained from the Awarding Authority. Normal maintenance and improvement of land in agricultural or aquacultural use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations are exempt from this prohibition. **The Stormwater Permit does not exclude the requirement of filing a Construction General Permit with the Environmental Protection Agency.**

B. No Storm Water Discharges containing Pollutants are permitted.

C. Sources of non-Storm Water may be combined with Storm Water Discharges as long as they do not contain Pollutants.

VI. APPLICATION PROCEDURE

Applicant must sign and file an Application for a Storm Water Permit on the form provided by the Town. The Application should be submitted to the Storm Water Manager and to be deemed complete must be accompanied by:

- A. An application fee of two hundred dollars (\$200.00).
- B. Identification of the Construction Site by book, page, and plot number in the records of the Assessor's Office.
- C. A narrative description of the Construction Activity intended, the proposed use of any improvements to be constructed and the construction timetable.
- D. A site plan.
- E. A list of abutters certified by the Assessor's Office including addresses.
- F. A Storm Water Pollution Prevention Plan.

VII. SITE PLAN REQUIREMENTS FOR PLANNING BOARD AND ZONING BOARD APPLICATIONS FOR LOTS OVER 1 ACRE IN AREA

The site plan that is submitted must contain AT LEAST the following information. Planning

Board plan regulations must also be met for subdivision applications and Zoning Board regulations must also be met for site plan reviews:

- A. Names, addresses and telephone numbers of the person(s) or firm(s) preparing the plan.
- B. Title, date, north arrow, scale, legend and locus map.
- C. Location and description of natural features including watercourses and water bodies, wetland resource areas and all floodplain information including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map (or as calculated by a professional engineer for areas not assessed on those maps) located on or adjacent to the Construction Site.
- D. A description and delineation of existing Storm Water conveyances and impoundments located on the Construction Site with their point of discharge noted.
- E. Location and description of existing soils and vegetation including tree lines, shrub layer, ground cover and herbaceous vegetation and trees with a caliper twelve (12) inches or larger with run-off coefficient for each.
- F. Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife and Certified Vernal Pools, and Priority Habitats of Rare Species located on or adjacent to the Construction Site.
- G. Lines of existing abutting streets showing drainage and driveway locations and curb cuts.
- H. Surveyed property lines of the Construction Site showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire Construction Site and the delineation and number of square feet of the land area that is to be Disturbed.
- I. Proposed improvements including location of buildings or other structures and impervious surfaces (such as parking lots).
- J. Topographical features including existing and proposed contours at intervals of no greater than two (2) feet with spot elevations provided when needed.
- K. The existing site hydrology including drainage patterns and approximate slopes anticipated after major grading activities.
- L. Location of the MS4 with relation to the Construction Site.
- M. Identification of Outfalls which are located on the Construction Site.

- N. Storm Water Discharge calculations prepared and certified by a Registered Professional Engineer describing the volume of Storm Water that presently Discharges from the Construction Site and the estimated volume post-development.
- O. Identification of any existing Storm Water Discharges emanating from the Construction Site and discharging into the MS4 for which a NPDES Permit has been issued (include Permit number).
- P. A list of water bodies that will receive Storm Water Discharges from the Construction Site with the location of drains noted on the map. A brief description of known water quality impacts and whether the water bodies receiving such Storm Water Discharges have:
 - 1) Been assessed and reported in reports submitted by the Massachusetts Department of Environmental Protection to EPA pursuant to Section 305 (b) of CWA and
 - 2) Been listed as a Category 5 Water (Waters Requiring a Total Maximum Daily Load (TMDL)) by DEP under 303(d) of the CWA.

VIII. STORM WATER POLLUTION PREVENTION PLAN REQUIREMENTS

Applicant must submit a Storm Water Pollution Prevention Plan (SWPPP) with its Application for a Storm Water Permit. The SWPPP must include all of the following:

- A. A plan to control wastes generated by the Construction Activity on the Construction Site and
- B. An Erosion and Sedimentation control plan and
- C. A plan to construct Storm Water Management Measures and
- D. A plan for Operation and Maintenance of Storm Water Management Measures

A. PLAN TO CONTROL WASTES

Applicant must list the construction and waste materials expected to be generated or stored on the Construction Site. These wastes include but are not limited to: discarded building materials, concrete truck washout, chemicals, litter, sanitary waste and material stockpiles. Applicant must also describe in narrative form the Best Management Practices it will utilize to reduce pollutants from these materials including storage practices to minimize exposure of the materials to Storm Water and spill prevention and response plans. If any structural BMPs are proposed, they must be identified and located on the site plan. At a minimum Applicant's plan should provide for the following:

- 1. Areas designated and controlled for equipment storage, maintenance and repair.
- 2. Convenient locations for waste receptacles and a schedule for regular removal.
- 3. Wash down areas for vehicles selected to prevent contamination of Storm Water.

4. Covered storage areas for chemicals, paints, solvents, fertilizers and other toxic materials.
5. Adequately maintained sanitary facilities.

B. EROSION AND SEDIMENTATION CONTROL PLAN

Applicant must describe in narrative form its plan for properly stabilizing the site before construction begins and the BMPs that it will use during construction to minimize erosion of the soil and sedimentation of the Storm Water. These BMPs should include both stabilization practices such as: seeding, mulching, preserving trees and vegetative buffer strips, and contouring and structural practices such as: earth dikes, silt fences, drainage swales, sediment traps, check dams, and subsurface or pipe slope drains. Applicant must locate structural BMPs on the site plan. Applicant must also provide details of construction including the timing, scheduling and sequencing of development including clearing, stripping, rough grading, construction, final grading and Final Site Stabilization.

C. PLAN TO CONSTRUCT STORM WATER MANAGEMENT MEASURES

Applicant must describe its proposed drainage system and identify the Storm Water Management Measures it plans to construct on the Construction Site in order to retain Storm Water recharge on-site and prevent Pollutants from entering Storm Water Discharges. These measures include but are not limited to: on-site filtration, flow attenuation by vegetation or natural depressions, outfall velocity dissipation devices, retention structures and artificial wetlands and water quality detention structures.

Applicant is required to show the following on its site plan:

1. The estimated seasonal high groundwater elevation in areas to be used for Storm Water Management Measures.
2. Detailed plans and descriptions of all components of the proposed drainage system including:
 - a. locations, cross-sections and profiles of all brooks, streams, drainage swales and their method of stabilization,
 - b. all Storm Water Management Measures to be used for the detention, retention or infiltration of water, their size and location on the Construction Site, and the volume of Storm Water that each will hold.
 - c. all Storm Water Management Measures for the protection of water quality if so-called Category 5 waters are located on or adjacent to the Construction Site.
 - d. the structural details for all components of the proposed drainage system and Storm Water Management Measures, including cross-sections.
 - e. notes on drawings specifying materials to be used, construction specifications

and typicals and

- f. expected hydrology with supporting calculations of post-development Storm Water Discharges.

D. PLAN FOR OPERATION AND MAINTENANCE OF STORM WATER MANAGEMENT MEASURES

Applicant must outline its plan for the long-term operation and maintenance of the Storm Water Management Measures that have been built on the Construction Site. This plan must include the following:

1. A description of the annual maintenance activities that will be performed and identification of the individual who will perform them and
2. An estimate of the annual cost of these maintenance activities and a description of the operation and maintenance fund that the Applicant will establish and
3. The language of a covenant and restriction which Applicant will record in the appropriate Registry of Deeds, binding and enforceable against the Construction Site and the Owner from time to time thereof to maintain the Storm Water Management Measures.

IX. PROCEDURE FOR SITE PLAN REVIEW

- A. Following receipt of a complete Application for a Storm Water Permit, the Storm Water Manager will refer it to either the Planning Board (if the proposed construction project requires sub-division approval under c. 41 of the M.G.L.) or the Zoning Board of Appeals for review and comment.
- B. The Storm Water Manager will promptly schedule and notice a public hearing in the local weekly newspaper at which public comment on the Application will be received and recorded by the Storm Water Manager. He will give notice by first class mailings to abutters at least seven (7) days prior to the hearing and will make the Application available for inspection by the public during normal business hours at the Town Hall.
- C. After receipt of the recommendation of the Planning Board or the Zoning Board of Appeals and public comment at the public hearing, the Storm Water Manager may approve or deny the Application, require changes to any part of the SWPPP, revise the amount of the required annual maintenance deposit or may impose additional conditions in the Storm Water Permit that he issues.
- D. The Storm Water Manager may not issue the Storm Water Permit until final plans of the development approved by either the Planning Board or Zoning Board of Appeals have been filed with the Storm Water Manager and twenty-one (21) days have elapsed. If there are changes on the final plans which affect the Storm Water Permit, the Storm Water Manager (after written notice to the Applicant) shall review these changes and may impose additional

conditions in the Storm Water Permit.

X. CONDITIONS OF THE STORM WATER PERMIT

The following standard conditions shall apply to each Storm Water Permit issued in accordance with this by-law.

- A. The Permittee shall comply with all conditions of the Storm Water Permit and its Storm Water Pollution Prevention Plan.
- B. Permittee shall comply with all other local permits related to the Construction Site.
- C. Permittee shall make an annual deposit of funds in a specially segregated account in the amount equal to the estimated annual cost to operate and maintain the Storm Water Management Measures.
- D. Permittee shall maintain on-going records of the aforesaid operation and maintenance fund which shall show:
 - 1. The maintenance activities performed on the Storm Water Management Measures located on the Construction Site, the dates on which they were performed and the names of the individuals who performed them, and
 - 2. The costs of such maintenance activities shown deducted from the fund, and
 - 3. The current balance in the fund.
- E. Permittee shall record within ten (10) days of receipt of the Storm Water Permit in the appropriate Registry of Deeds a covenant and restriction in form and substance identical to that submitted with his Application and approved by the Storm Water Manager, and shall submit evidence of such recording to the Storm Water Manager.
- F. The Permittee shall furnish the Storm Water Manager any information which is requested to determine compliance with the Storm Water Permit.
- G. The Permittee shall allow authorized representatives of the Awarding Authority to:
 - 1. enter upon the Permittee's Construction Site and
 - 2. have access to and the right to copy at reasonable times any records required to be kept under the conditions of this By-Law and
- H. Permittee shall allow representatives of the Awarding Authority to make regular, unannounced inspections of the Construction Site. These typically will occur at the following times:

1. Initial Site Inspection prior to Construction Activity starting but after a complete Application has been filed.
 2. After Erosion and Sedimentation controls are in place.
 3. After Construction Site clearing has been substantially completed.
 4. After rough grading has been substantially completed.
 5. Prior to backfilling of any underground drainage and/or after Storm Water Management Measures have been installed.
 6. After final grading has been substantially completed.
 7. At the end of the construction season if Construction Activity has not yet been completed.
 8. After Final Site Stabilization.
- I. The Permittee shall report the release of any reportable quantity of hazardous substances oil which occurs on the Construction Site during Construction Activity. This report must be made within fourteen days of knowledge of the release and must include the date and description of the release, the circumstances leading to the release, responses to be employed for such release and measures to prevent re-occurrence of such release.
- J. The issuance of the Storm Water Permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights nor any infringement of Federal, State or local laws or regulations.
- K. The provisions of the Storm Water Permit are severable and if any provision of the Permit or the application of any provision of the Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the Permit shall not be affected thereby.
- L. The Storm Water Permit is not transferable.
- M. The Storm Water Manager reserves the right during the Permit Term to modify the Permit and impose additional conditions.
- N. Conditions contained in Permittee's NPDES Comprehensive General Permit will be incorporated by reference in the Storm Water Permit.

XI. PERMIT TERM

The Storm Water Permit shall be effective upon the date of issuance and remain in effect until the earlier to occur of: 1) a Certificate of Completion is issued by the Awarding Authority indicating that all Construction Activity has ceased and Final Site Stabilization construction,

inspection and approval by a representative of the Awarding Authority has occurred, or 2) the date three years from the date of issuance of the Storm Water Permit has occurred without Applicant starting Construction Activity on the Construction Site.

XII. DEFAULT OF THE PERMITTEE

The Storm Water Manager may during the Permit Term find a Permittee is in default after notice and hearing if he shall reasonably determine that:

- A. Permittee knowingly made a false material statement, representation or certification in his Application or SWPPP, or
- B. Permittee is no longer the owner or Operator of the Construction Site and thus not authorized to sign the Application for a Storm Water Permit, or
- C. Permittee is not in compliance with the terms of its Storm Water Permit or SWPPP.

Permittee shall be given not less than ten days prior written notice of the time and place of the hearing and shall have the opportunity at the public hearing to present evidence.

XIII. ENFORCEMENT

The Storm Water Manager will report any Permittee that he has found to be in default as described in the preceding section to the Awarding Authority. The Awarding Authority may take any of the following actions:

- A. Issue a written order requiring the Permittee to cease and desist from Construction Activity until there is compliance with this By-Law and the Storm Water Permit,
- B. Issue a written order requiring maintenance, installation or performance of additional Erosion and Sedimentation control measures by a certain deadline,
- C. Issue a written order requiring the repair, maintenance or replacement of Storm Water Management Measures by a certain deadline,
- D. Issue a written order requiring remediation of any Pollutants that are entering Storm Water Discharges as a result of the Construction Activity by a certain deadline,
- E. Suspend or revoke the Storm Water Permit,
- F. Enforce the covenant and restriction against any or all of the following: the operation and maintenance fund, the Construction Site, or the owner from time to time thereof as the Town may elect in its discretion.
- G. Take any other enforcement action available under applicable federal, state or local law.

XIV. APPEALS

An Applicant or Permittee aggrieved by a decision of the Storm Water Manager under this By-Law may within thirty days of such action request a hearing before the Board of Selectmen at which the Applicant or Permittee shall be afforded the opportunity to present evidence and argument concerning final action by the Board of Selectmen. The Board of Selectmen shall hold such hearing within thirty days following the filing of the request and within thirty days after the closing of the hearing shall either confirm the Storm Water Manager's previous action or order such other final action as it may determine. Appeals from a decision of the Board of Selectmen may be taken to a court of competent jurisdiction.

XV. WAIVERS

The Awarding Authority may, where such action is allowed by law, in the public interest and not inconsistent with the purpose and intent of this By-Law, waive strict compliance with any requirement of this By-Law provided:

- A. Applicant has submitted a written request to be granted a waiver, has explained and/or documented the facts supporting his waiver request, and has demonstrated that the strict application of the By-Law to his case will not further the purpose or objective of the By-Law, and
- B. Applicant's waiver request was discussed and voted on at a public hearing following public notice and notice to abutters.

XVI. SEVERABILITY

If any clause, section or part of this By-Law shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this By-Law shall not be affected thereby but shall remain in full force and effect.

XVII. EFFECTIVE DATE

This By-Law shall take effect upon approval by the Office of the Attorney General and as otherwise required by M.G.L. c. 40, §32.

or to take any other action relative thereto.

BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

This article addresses obligations of the Town under the federal Clean Water Act with regards to storm water discharges from construction sites. The Finance Committee has met with the Department of Public Works to discuss this issue and has only the clarification of the fee structure for permits to be finalized.

The Finance Committee will make its recommendation at Town Meeting.

ARTICLE 12

To see if the Town will vote to amend the following Paragraphs of the Zoning By-Laws of the Town, for the purpose of incorporating the new Stormwater Discharges Generated By Construction Activity General By-Law:

To accommodate the foregoing, the following changes to the Zoning By-Laws of the Town of Sharon are required:

2211. Authorization.

Remove the words “Section 6330” and replace them with the following:

“Sections 6320, 6330”

2213. Site Plan Approval in Business A and C Districts.

Remove the word “6440.” and replace it with the following:

“6330. In addition, the aforesaid activities may also require Site Plan review pursuant to Section 6321(e).”

3351.

Add the following at the end of this Subsection:

“The Board, in its discretion, may require approval of the aforesaid Sedimentation and Erosion Control Plan by the Stormwater Manager, in accordance with the provisions of the Stormwater Discharges Generated By Construction Activity General By-Law of the Town, in those circumstances where such approval is not otherwise required.

4310. Intent and Applicability

Add the following language at the end of this Section:

“All flexible developments shall comply with the provisions of the Stormwater Discharges Generated By Construction Activity General By-Law of the Town.”

4362(b). Zoning Classification.

Add the following language at the end of this Subsection:

“All CSDs shall comply with the provisions of the Stormwater Discharges Generated By Construction Activity General By-Law of the Town.”

4534. Storm Water Management.

Delete the first sentence of this Subsection in its entirety, and replace it with the following language:

“Site design shall comply with the provisions of the Stormwater Discharges Generated By

Construction Activity General By-Law of the Town and in addition shall result in no increase in the peak rate of storm water runoff in a ten (10) year storm.”

4542(a)(6).

Delete this Subsection in its entirety, and replace it with the following language:

“All submittals shall be reviewed by the Town Engineer in accordance with this By-Law, the Stormwater Discharges Generated By Construction Activity General By-Law, and any other relevant By-Law, and the Town Engineer shall submit his report to the Board of Appeals prior to the public hearing.”

4543. Criteria for Special Permits for Insensitive Locations.

Add the following as Subsection (c):

“A determination by the Board of Appeals to grant a Special Permit pursuant to Sections 4543(a) or 4543(b) shall not exempt the applicant from the provisions of the Stormwater Discharges Generated By Construction Activity General By-Law of the Town.”

4544. Criteria for Special Permits not Covered by Section 4543.

Add the following as Subsection (d):

“A determination by the Board of Appeals to grant a Special Permit pursuant to Sections 4544(a), 4544(b), or 4544(c) shall not exempt the applicant from the provisions of the Stormwater Discharges Generated By Construction Activity General By-Law of the Town.”

6321. Site Plan Approval.

Add the following language as Subparagraph (e):

“e. In addition, in any district in which the total disturbed area of the plan proposed exceeds one (1) acre, said plan shall require approval pursuant to the Stormwater Discharges Generated By Construction Activity General By-Law of the Town. For the purposes of this Subsection, the designation “disturbed” shall apply to any land area which, according to the plan, will be subject to any activity such as clearing, grading and excavating that exposes soil, sand, rock, gravel or similar earth material.”

or to take any other action relative thereto.

PLANNING BOARD

FINANCE COMMITTEE RECOMMENDATION:

This article attempts to modify the Town’s zoning by-laws to accommodate the Storm Water Discharge by Construction Activity by-law presented in the previous article. The Finance Committee defers to the deliberations of the Planning Board before making its recommendation and awaits their vote.

The Finance Committee will make its recommendation at Town Meeting.

ARTICLE 13

To see if the Town will vote to amend the Zoning By-Laws of the Town, for the purpose of added a new Mixed Use Overlay District.

To accommodate the foregoing, the following additions to the Zoning By-Laws of the Town of Sharon are required:

4800. Mixed Use Overlay District (MUOD)

4801. Purpose.

- a. To promote mixed use development in accordance with the principles of “smart growth”, which increases the availability of affordable housing, provides housing alternatives to meet local needs, promotes walkable neighborhoods, takes advantage of compact design, fosters distinctive and attractive village settings, preserves critical environmental assets, and supports economic revitalization in the Town Center and other commercial, transit-oriented locations.
- b. To provide additional planning flexibility for projects located in the Town Center and other commercial locations in Town with regard to density and site design, while remaining consistent with the Town’s Design Guidelines and sensitive to environmental impacts.
- c. To permit the use of new development standards which will promote the desired changes in the Town Center and other commercial, transit-oriented locations.

4805. Application.

The MUOD is hereby designated as including the Business A, Business B and Business C districts, except those portions of the aforesaid Business districts which are within the Surface or Groundwater Protection Districts. The MUOD shall not restrict owners’ rights relative to the underlying zoning district. However, if an owner elects to use the MUOD for development purposes, all development shall conform to the regulations set forth in this Section, as well as all other relevant provisions of the Sharon Zoning and General By-Laws.

4810. Uses.

Retail and business uses currently permitted in the Business A, Business B and Business C districts, and residential apartments in the upper floors of structures, shall be permitted in the MUOD. Authorization for any uses within an MUOD development which would require a Special Permit under underlying zoning, shall be obtained through the Planning Board. Residential apartments on the first floor of a structure which does not front a public way shall be permitted only at the discretion of the Planning Board.

4815. Density.

The minimum density for MUOD developments shall be 20 units per acre. The maximum number of units shall be limited by the number of full-sized parking spaces which could be provided on the site at ground level. If structured parking is provided, the number of units at the site cannot exceed what would be permitted without structured parking.

4820. Wastewater.

A plan for the treatment of wastewater from a proposed development in the MUOD must be provided in accordance with Board of Health regulations.

4825. Height.

All new construction in the MUOD shall neither exceed 3 stories nor a height of forty-five (45') feet.

4830. Off Street Parking Regulations.

a. A minimum of one space per residential unit shall be provided, in addition to parking required for retail and business uses pursuant to Section 3111. With the approval of the Planning Board, up to twenty-five (25%) percent of the total number of residential parking spaces for a development located within a half mile of the train station may be used to meet the required parking for retail and business uses, and up to fifty (50%) percent of the total number of residential parking spaces for a development located more than one mile from the train station may be used to meet the required parking for retail and business uses, where it can be demonstrated that the hours of operation for retail and business uses at the development will be during daytime hours only.

b. In order to provide for better site design, up to twenty-five (25%) percent of the total number of parking spaces may, at the discretion of the Planning Board, be allocated for compact cars with dimensions of eight (8') feet by eighteen (18') feet. Such spaces shall be clearly designated for compact cars only. Compact spaces cannot be applied in calculating the density of residential units, but they may be used to meet minimum open space requirements and provide for better site design and stormwater drainage.

c. Off-site parking, as allowed under Section 3112 of the Zoning By-Laws, may not be counted toward the requirements for residential units, but may be counted toward non-residential parking requirements. Street parking, as with other publicly-owned parking spaces within 400' of the site, may be counted toward the non-residential parking requirements.

4835. Minimum Lot Dimensions.

The minimum lot dimensions for all MUOD developments shall be as set forth below:

Minimum lot size: eight thousand (8,000) square feet

Minimum lot frontage: fifty (50') feet

Minimum front setbacks: zero (0') feet

Minimum side and rear setbacks: ten (10') feet

4840. Open Space.

The open space requirement for a development in the MUOD may be reduced to a minimum of fifteen (15%) percent of the lot area if the development proposal includes the use of planting areas, porous paving surfaces and other techniques to ensure adequate drainage and filtering of stormwater.

4845. Affordability.

A minimum of twenty (20%) percent of housing units in a development in the MUOD must be affordable to households earning up to eighty (80%) percent of median income, or as affordable housing may be otherwise defined from time to time by the United States Department of Housing and Urban Development. The affordability of such units shall be assured in perpetuity through the use of an affordable housing restriction.

4850. Site Plan Review.

- a. All projects developed using the MUOD shall be subject to the Site Plan Review procedures of the Planning Board and Board of Appeals as provided in Sections 6320 and 6330, and, where applicable, the Town's Stormwater Discharges Generated By Construction Activity General By-Law. Projects undergoing extended design review shall be required to submit to the Planning Board the basic site plan contents as well as a study model at an appropriate scale and coverage as determined by the Planning Board.
- b. The elements highlighted in the Design Guidelines as enumerated in site plan review, including pathways connecting to adjacent sidewalks, parking areas, sitting areas, a plan for storage areas, lighting, shade trees and other landscaping, shall be provided for review by the Planning Board. Developers are encouraged to meet with the Downtown Revitalization Committee to discuss their projects with respect to the Design Guidelines.

4855. Approval.

The Planning Board shall be the special permit granting authority for MUOD developments, as well as the authority for site plan review. Authorization shall be obtained from the Planning Board for any uses within an MUOD development which would require a Special Permit under underlying zoning.

or to take any other action relative thereto.

PLANNING BOARD

The following chart is submitted to Town Meeting with Article 13 for informational purposes only, and is not intended to be part of Article 13.

INFORMATION ON ARTICLE 7

The Finance Committee's Motion will be:

That the Town vote to modify the action taken under Article 1 of the December, 2003, Special Town Meeting by changing the first paragraph thereof to add the phrase * **“a substantial portion, if not the total acreage of,”** between the words “Conservation Restriction on” and “the following parcel”, so that the article as modified will read as follows:

“That the Town raise and appropriate the sum of \$7,500,000.00 to be added to the Conservation Commission Land Acquisition Account so that the Commission may acquire by gift or purchase, in the name of the Town for conservation purposes, the fee in and/or a Conservation Restriction on ***a substantial portion, if not the total acreage of,** the following parcel of land:

The property known as Rattlesnake Hill, situated in Sharon, Massachusetts, located on the easterly side of Mountain Street, consisting of 339.40 acres +/- and containing Lots AA, 6, 7, 15, 16, 17, 21, 22, 23, 24, 25 and 26 as shown on a “Plan of Land, Mountain Street in Sharon, Mass.,” dated May 6, 1996, Youngquist, James & Associates, Inc., recorded in the Norfolk County Registry of Deeds on May 30, 1996, in Plan Book 439, Plan No. 293, or as the same may be more particularly described.

To meet \$6,000,000.00 of this \$7,500,000.00 appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$6,000,000.00 under Massachusetts General Laws, Chapter 44, §7 and/or §8.

And further, this \$6,000,000.00 appropriation shall take effect only if the Town votes at an election held in accordance with Massachusetts General Laws, Chapter 59, §21C(m) to exempt said \$6,000,000.00 debt incurred herein from the provisions of Proposition 2 ½.

And further, to meet \$1,500,000.00 of this \$7,500,000.00 appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$1,500,000.00 under Massachusetts General Laws, Chapter 44, §7 and/or §8, with the principal and interest on said borrowing to be repaid from receipts under the water works account.

And further, that if the Town proceeds with a proposed above-ground water storage tank, standpipe, and water pressure system, or a fire department substation, on a portion of the property consisting of not more than two acres, the location and exact size of said portion as to be determined by the Board of Selectmen and the Conservation Commission, such portion of the property shall be excluded from the conservation restrictions placed upon the acquired land.

And further, to authorize the Conservation Commission and/or the Board of Selectmen to enter into such agreements and execute such documents as may be necessary to accomplish the foregoing.

***Provided, however, that any such acquisition by purchase shall not be made, unless an amount of money is made available by the Commonwealth of Massachusetts, or such other third party as may be available, to provide the balance of the purchase price for the aforesaid acquisition.”**

**Highlighted sections to be explained during presentation of Article.*

MIXED USE OVERLAY DISTRICT- PLANNING BOARD FINAL VERSION

The following text contains the complete language of the proposed Mixed Use Overlay District. This language does differ from the language of Warrant Article 13, and the changes will be discussed during the October 18, 2004, Special Town Meeting. If adopted at the Special Town Meeting, this language would be added to the Zoning By-Laws of the Town of Sharon.

Please note that the chart at the end of this handout is provided for informational purposes only, and is not intended to be part of Article 13 or any motion related to that Article.

4800. Mixed Use Overlay District (MUOD)

4801. Purpose.

- a. To promote mixed use development in accordance with the principles of “smart growth”, which increases the availability of affordable housing, provides housing alternatives to meet local needs, promotes walkable neighborhoods, takes advantage of compact design, fosters distinctive and attractive village settings, preserves critical environmental assets, and supports economic revitalization in the Town Center and other commercial, transit-oriented locations.
- b. To provide additional planning flexibility for projects located in the Town Center and other commercial locations in Town with regard to density and site design, while remaining consistent with the Town’s Design Guidelines and sensitive to environmental impacts.
- c. To permit the use of new development standards which will promote the desired changes in the Town Center and other commercial, transit-oriented locations.

4805. Application.

The MUOD is hereby designated as including the Business A, Business B and Business C districts, except those portions of the aforesaid Business districts which are within the Surface or Groundwater Protection Districts. The MUOD shall not restrict owners’ rights relative to the underlying zoning district. However, if an owner elects to use the MUOD for development purposes, all development shall conform to the regulations set forth in this Section, as well as all other relevant provisions of the Sharon Zoning and General By-Laws.

4810. Uses.

Retail and business uses currently permitted in the Business A, Business B and Business C districts, and residential apartments in the upper floors of structures, shall be permitted in the MUOD. Authorization for any uses within an MUOD development which would require a Special Permit under underlying zoning, shall be obtained through the Planning Board. Residential apartments on the first floor of a structure which does not front a public way shall be permitted only at the discretion of the Planning Board.

4815. Density.

The minimum density for MUOD developments shall be 20 units per acre. The maximum number of units shall be limited by the number of full-sized parking spaces which could be provided. .

4820. Wastewater.

A plan for the treatment of wastewater from a proposed development in the MUOD must be provided in accordance with Board of Health regulations.

4825. Height.

All new construction in the MUOD shall neither exceed 4 stories nor a building height of forty-five (45') feet. Accessories and architectural features extending above the roofline may not exceed a height of fifty (50') feet.

4830. Off Street Parking Regulations.

- a. A minimum of one space per residential unit shall be provided, in addition to parking required for retail and business uses pursuant to Section 3111. With the approval of the Planning Board, up to twenty-five (25%) percent of the total number of residential parking spaces for a development located within a half mile of the train station may be used to meet the required parking for retail and business uses, and up to fifty (50%) percent of the total number of residential parking spaces for a development located more than one-half mile from the train station may be used to meet the required parking for retail and business uses, where it can be demonstrated that the hours of operation for retail and business uses at the development will be during daytime hours only.

- b. In order to provide for better site design, up to twenty-five (25%) percent of the total number of parking spaces may, at the discretion of the Planning Board, be allocated for compact cars with dimensions of eight (8') feet by eighteen (18') feet. Such spaces shall be clearly designated for compact cars only. Compact spaces cannot be applied in calculating the density of residential units, but they may be used to meet minimum open space requirements and provide for better site design and stormwater drainage.
- c. Off-site parking, as allowed under Section 3112 of the Zoning By-Laws, may not be counted toward the requirements for residential units, but may be counted toward non-residential parking requirements. Street parking, as with other publicly-owned parking spaces within 400' of the site, may be counted toward the non-residential parking requirements.
- d. Multi-level parking may be allowed not to exceed two (2) levels if determined by the Planning Board to be appropriate. Such parking may be shared with others off-site provided they are within four hundred (400') feet of the site and the Planning Board is provided with acceptable written proof.

4835. Minimum Lot Dimensions.

The minimum lot dimensions for all MUOD developments shall be as set forth below:

Minimum lot size: eight thousand (8,000) square feet

Minimum lot frontage: fifty (50') feet

Minimum lot width: fifty (50') feet

Minimum front setbacks: zero (0') feet

Minimum side and rear setbacks: ten (10') feet

All individual/separate lots in the proposed MUOD development if under contiguous ownership shall be considered as one (1) lot for the purposes of this Bylaw.

4840. Open Space.

The open space requirement for a development in the MUOD may be reduced to a minimum of fifteen (15%) percent of the lot area if the development proposal includes the use of planting areas, porous paving surfaces and other techniques to ensure adequate drainage and filtering of stormwater.

4845. Affordability.

A minimum of twenty (20%) percent of housing units in a development in the MUOD must be affordable to households earning up to eighty (80%) percent of median income, or as affordable housing may be otherwise defined from time to time by the United States Department of Housing and Urban Development. The affordability of such units shall be assured in perpetuity through the use of an affordable housing restriction.

4850. Site Plan Review.

- a. All projects developed using the MUOD shall be subject to the Site Plan Review procedures of the Planning Board as provided in Section 6330, as well as the Town's Stormwater Discharges Generated By Construction Activity General By-Law. Projects undergoing extended design review shall be required to submit to the Planning Board the basic site plan contents and may be required to provide a study model at an appropriate scale and coverage as determined by the Planning Board.
- b. The elements highlighted in the Design Guidelines as enumerated in site plan review, including pathways connecting to adjacent sidewalks, parking areas, sitting areas, a plan for storage areas, lighting, shade trees and other landscaping, shall be provided for review by the Planning Board. Developers are encouraged to meet with the Downtown Revitalization Committee to discuss their projects with respect to the Design Guidelines.

4855. Approval.

The Planning Board shall be the special permit granting authority for MUOD developments, as well as the authority for site plan review. Authorization for any uses within an MUOD development which would require a Special Permit under underlying zoning shall also be obtained through the Planning Board.

The following chart is submitted to Town Meeting with Article 13 for informational purposes only, and is not intended to be part of Article 13.

Summary of Existing and Proposed Zoning Provisions

	Existing Business District Zoning	Proposed MUOD Zoning
Permitted Uses	<p>By Right</p> <ul style="list-style-type: none"> - Single and two family residences - Retail, service, business uses <p>By Special Permit</p> <ul style="list-style-type: none"> - Apartments above ground floor - Floor area over 60,000 s.f. or parking for 150+ spaces 	<p>Underlying: Same</p> <p>With MUOD Approval:</p> <ul style="list-style-type: none"> - Apartments above ground floor and on ground floor where not along the street subject to Planning Board discretion.
Density	<p>Min. lot size 8,000 s.f. (10,000 s.f. for 2-family res.)</p> <p>Apartments limited to 16 bedrooms per acre, no restriction on number of bedrooms per unit.</p>	<p>Min. Lot Size 8,000 square feet.</p> <p>Number of apartment units limited by parking requirements, with minimum 20 units/acre.</p>
Dimensions	<p>Max height 3 stories or 45 feet.</p> <p>10' setback from lot lines</p> <p>30% of lot must be landscaped open space; may be reduced to 15% with Planning Board approval.</p>	<p>Max height 4 stories or 45 feet.</p> <p>0' setbacks; a 4th story and 50' height, including design elements, only by special permit.</p> <p>15% of lot must be landscaped or open space; site design must provide for stormwater management.</p>
Parking	<p>1 space per dwelling unit and 1 space per 200 s.f. ground floor commercial space.</p> <p>May be located off site within 400 feet of entrance.</p>	<p>Number of spaces required is same as existing zoning;</p> <p>Some residential spaces may be combined with commercial spaces, but all residential spaces must be provided on site.</p> <p>Some compact spaces are allowed in order to improve site design and provide open space but cannot be counted toward increasing residential density. Up to two floors of structured parking is allowed, and, if on site, may be counted toward increasing residential density.</p>
Affordability	None	20% of residential units must be affordable.
Approval	<p>Special Permit Board of Appeals</p> <p>Site Plan Review Planning Board</p>	<p>Special Permit and Site Plan Review Planning Board</p>

The following is the redlined version of the Multiple Use Overlay District to show the changes in language from the Warrant.

ARTICLE 13

To see if the Town will vote to amend the Zoning By-Laws of the Town, for the purpose of added a new Mixed Use Overlay District.

To accommodate the foregoing, the following additions to the Zoning By-Laws of the Town of Sharon are required:

4800. Mixed Use Overlay District (MUOD)

4801. Purpose.

- a. To promote mixed use development in accordance with the principles of “smart growth”, which increases the availability of affordable housing, provides housing alternatives to meet local needs, promotes walkable neighborhoods, takes advantage of compact design, fosters distinctive and attractive village settings, preserves critical environmental assets, and supports economic revitalization in the Town Center and other commercial, transit-oriented locations.
- b. To provide additional planning flexibility for projects located in the Town Center and other commercial locations in Town with regard to density and site design, while remaining consistent with the Town’s Design Guidelines and sensitive to environmental impacts.
- c. To permit the use of new development standards which will promote the desired changes in the Town Center and other commercial, transit-oriented locations.

4805. Application.

The MUOD is hereby designated as including the Business A, Business B and Business C districts, except those portions of the aforesaid Business districts which are within the Surface or Groundwater Protection Districts. The MUOD shall not restrict owners’ rights relative to the underlying zoning district. However, if an owner elects to use the MUOD for development purposes, all development shall conform to the regulations set forth in this Section, as well as all other relevant provisions of the Sharon Zoning and General By-Laws.

4810. Uses.

Retail and business uses currently permitted in the Business A, Business B and Business C districts, and residential apartments in the upper floors of structures, shall be permitted in the MUOD. Authorization for any uses within an MUOD development which would require a Special Permit under underlying zoning, shall be

obtained through the Planning Board. Residential apartments on the first floor of a structure which does not front a public way shall be permitted only at the discretion of the Planning Board.

4815. Density.

The minimum density for MUOD developments shall be 20 units per acre. The maximum number of units shall be limited by the number of full-sized parking spaces which could be provided, at ground level. ~~If structured parking is provided, the number of units at the site cannot exceed what would be permitted without structured parking.~~

4820. Wastewater.

A plan for the treatment of wastewater from a proposed development in the MUOD must be provided in accordance with Board of Health regulations.

4825. Height.

All new construction in the MUOD shall neither exceed 4 stories nor a building height of forty-five (45') feet. Accessories and architectural features extending above the roofline may not exceed a height of fifty (50') feet.

4830. Off Street Parking Regulations.

- a. A minimum of one space per residential unit shall be provided, in addition to parking required for retail and business uses pursuant to Section 3111. With the approval of the Planning Board, up to twenty-five (25%) percent of the total number of residential parking spaces for a development located within a half mile of the train station may be used to meet the required parking for retail and business uses, and up to fifty (50%) percent of the total number of residential parking spaces for a development located more than one-half mile from the train station may be used to meet the required parking for retail and business uses, where it can be demonstrated that the hours of operation for retail and business uses at the development will be during daytime hours only.
- b. In order to provide for better site design, up to twenty-five (25%) percent of the total number of parking spaces may, at the discretion of the Planning Board, be allocated for compact cars with dimensions of eight (8') feet by eighteen (18') feet. Such spaces shall be clearly designated for compact cars only. Compact spaces cannot be applied in calculating the density of residential units, but they may be used to meet minimum open space requirements and provide for better site design and stormwater drainage.
- c. Off-site parking, as allowed under Section 3112 of the Zoning By-Laws, may not be counted toward the requirements for residential units, but may be counted

toward non-residential parking requirements. Street parking, as with other publicly-owned parking spaces within 400' of the site, may be counted toward the non-residential parking requirements.

- d. Multi-level parking may be allowed not to exceed two (2) levels if determined by the Planning Board to be appropriate. Such parking may be shared with others off-site provided they are within four hundred (400') feet of the site and the Planning Board is provided with acceptable written proof.

4835. Minimum Lot Dimensions.

The minimum lot dimensions for all MUOD developments shall be as set forth below:

Minimum lot size: eight thousand (8,000) square feet

Minimum lot frontage: fifty (50') feet

Minimum lot width: fifty (50') feet

Minimum front setbacks: zero (0') feet

Minimum side and rear setbacks: ten (10') feet

All individual/separate lots in the proposed MUOD development if under contiguous ownership shall be considered as one (1) lot for the purposes of this Bylaw.

4840. Open Space.

The open space requirement for a development in the MUOD may be reduced to a minimum of fifteen (15%) percent of the lot area if the development proposal includes the use of planting areas, porous paving surfaces and other techniques to ensure adequate drainage and filtering of stormwater.

4845. Affordability.

A minimum of twenty (20%) percent of housing units in a development in the MUOD must be affordable to households earning up to eighty (80%) percent of median income, or as affordable housing may be otherwise defined from time to time by the United States Department of Housing and Urban Development. The affordability of such units shall be assured in perpetuity through the use of an affordable housing restriction.

4850. Site Plan Review.

- a. All projects developed using the MUOD shall be subject to the Site Plan Review procedures of the Planning Board as provided in Section 6330, as well as the Town's Stormwater Discharges Generated By Construction Activity General By-Law. Projects undergoing extended design review shall be required to submit to the Planning Board the basic site plan contents and may be required to provide a

study model at an appropriate scale and coverage as determined by the Planning Board.

- b. The elements highlighted in the Design Guidelines as enumerated in site plan review, including pathways connecting to adjacent sidewalks, parking areas, sitting areas, a plan for storage areas, lighting, shade trees and other landscaping, shall be provided for review by the Planning Board. Developers are encouraged to meet with the Downtown Revitalization Committee to discuss their projects with respect to the Design Guidelines.

4855. Approval.

The Planning Board shall be the special permit granting authority for MUOD developments, as well as the authority for site plan review. Authorization for any uses within an MUOD development which would require a Special Permit under underlying zoning shall also be obtained through the Planning Board.

or to take any other action relative thereto.

The following chart is submitted to Town Meeting with Article 13 for informational purposes only, and is not intended to be part of Article 13.

Summary of Existing and Proposed Zoning Provisions

	Existing Business District Zoning	Proposed MUOD Zoning
Permitted Uses	<p>By Right</p> <ul style="list-style-type: none"> - Single and two family residences - Retail, service, business uses <p>By Special Permit</p> <ul style="list-style-type: none"> - Apartments above ground floor - Floor area over 60,000 s.f. or parking for 150+ spaces 	<p>Underlying: Same</p> <p>With MUOD Approval:</p> <ul style="list-style-type: none"> - Apartments above ground floor and on ground floor where not along the street subject to Planning Board discretion.
Density	<p>Min. lot size 8,000 s.f. (10,000 s.f. for 2-family res.)</p> <p>Apartments limited to 16 bedrooms per acre, no restriction on number of bedrooms per unit.</p>	<p>Min. Lot Size 8,000 square feet.</p> <p>Number of apartment units limited by parking requirements, with minimum 20 units/acre.</p>
Dimensions	<p>Max height 3 stories or 45 feet.</p> <p>10' setback from lot lines</p> <p>30% of lot must be landscaped open space; may be reduced to 15% with Planning Board approval.</p>	<p>Max height 4 stories or 45 feet.</p> <p>0' setbacks; a 4th story and 50' height, including design elements, <u>only by special permit.</u></p> <p>15% of lot must be landscaped or open space; site design must provide for stormwater management.</p>
Parking	<p>1 space per dwelling unit and 1 space per 200 s.f. ground floor commercial space.</p> <p>May be located off site within 400 feet of entrance.</p>	<p>Number of spaces required is same as existing zoning;</p> <p>Some residential spaces may be combined with commercial spaces, but all residential spaces must be provided on site.</p> <p>Some compact spaces are allowed in order to improve site design and provide open space but cannot be counted toward increasing residential density. <u>Up to two floors of structured parking is allowed, and, if on site, may be counted toward increasing residential density.</u></p>
Affordability	None	20% of residential units must be affordable.
Approval	<p>Special Permit Board of Appeals</p> <p>Site Plan Review Planning Board</p>	<p>Special Permit and Site Plan Review</p> <p>Planning Board</p>

Summary of Existing and Proposed Zoning Provisions

Permitted Uses	<p>By Right</p> <p>I. Single and two family residences</p> <p>II. Retail, service, business uses</p> <p>III. By Special Permit</p> <p>IV. Apartments above ground floor</p> <p>V. Floor area over 60,000 s.f. or parking for 150+ spaces</p>	<p>I. Underlying: Same</p> <p>II. With MUOD Approval:</p> <p>III. - Apartments above ground floor and on ground floor where not along the street subject to Planning Board discretion.</p>
Density	<p>Min: lot size 8,000 s.f. (10,000 s.f. for 2-family res.)</p> <p>Apartments limited to 16 bedrooms per acre, no restriction on number of bedrooms per unit.</p>	<p>Min. lot size 8,000 square feet.</p> <p>Number of apartment units limited by parking requirements, with minimum 20 units/acre.</p>
Dimensions	<p>Max height 3 stories or 45 feet.</p> <p>10' setback from lot lines</p> <p>30% of lot must be landscaped open space; may be reduced to 15% with Planning Board approval.</p>	<p>Max height 3 stories or 45 feet.</p> <p>0' setbacks</p> <p>15% of lot must be landscaped or open space; site design must provide for stormwater management.</p>
Parking	<p>1 space per dwelling unit and 1 space per 200 s.f. ground floor commercial space. May be located off site within 400 feet of entrance.</p>	<p>Number of spaces required is same as existing zoning;</p> <p>Some residential spaces may be combined with commercial spaces, but all residential spaces must be provided on site.</p> <p>Some compact spaces are allowed in order to improve site design and provide open space, but cannot be counted toward increasing residential density.</p>
Affordability	None	20% of residential units must be affordable.
Approval	Special Permit Board of Appeals Site Plan Review Planning Board	Special Permit and Site Plan Review Planning Board

FINANCE COMMITTEE RECOMMENDATION:

This article's intent is to amend the Town's zoning by-laws to add a new Mixed Use Overlay District. This district would encompass the center of the town and promote additional planning flexibility. Items this amendment will address are affordable housing, density, open space and off

street parking.

The Finance Committee has had initial discussions with the Planning Board but awaits the Planning Board's vote on this matter. The Finance Committee will make its recommendation at Town Meeting.

ARTICLE 14

To see if the Town will vote to amend the following Paragraphs of the Zoning By-Laws of the Town, for the purpose of revising the Zoning By-Laws governing the Town's Flood Hazard District in accordance with the recommendations of the Massachusetts Division of Water Supply Protection:

To accommodate the foregoing, the following changes to the Zoning By-Laws of the Town of Sharon are required:

4410.1. Floodplain District Boundaries.

Delete the second sentence in its entirety and substitute the following language therefor:

"The District includes all special flood hazard areas designated on the Sharon Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program dated September 9, 1978, as Zone A, A1-30, and the FEMA Flood Boundary & Floodway Map dated September 9, 1978, both maps which indicate the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet dated March, 1978."

4410.3. Floodway Data.

Delete the words "Zone A, A1-30 and AE" and substitute the following language therefor:

"Zone A and A1-30"

4423. Reference to Existing State Regulations.

1. Delete the words "780 CMR 2102.0" and substitute the following language therefor:

"780 CMR 3107.0"

2. Delete the third bullet item ("Inland Wetlands Restriction") in its entirety and substitute the following language therefor:

"Adopting Inland Wetland Orders, DEP (currently 310 CMR 13.10)"

3. Delete the fourth bullet item (Coastal Wetlands Restriction) in its entirety.

4450 Notification of Watercourse Alteration.

Delete the text of the second and third bullet items (NFIP State Coordinator and NFIP Program Specialist) in their entirety and substitute the following language therefor:

“NFIP State Coordinator
251 Causeway Street, Suite 600-700
Boston, MA 02114”

“NFIP Program Specialist
99 High Street, 6th Floor
Boston, MA 02110”

or to take any other action relative thereto.

PLANNING BOARD

FINANCE COMMITTEE RECOMMENDATION:

This article attempts to amend the Zoning By-laws in accordance with recommendations from the Commonwealth’s Division of Water Supply Protection.

The Finance Committee has had initial discussions with the Planning Board but awaits the Planning Board’s vote on this matter. The Finance Committee will make its recommendation at Town Meeting.

ARTICLE 15

To see if the Town will vote to amend Article 11 of the General By-Laws, Penalties, Section 2, by adding thereto the following:

<u>By-Law, Rule or Regulation</u>	<u>Amount of Fine</u>	<u>Enforcing Agent</u>
ARTICLE		
Article 7 of the Rules and Regulations of the Sharon Board of Health.... “Minimum Requirements for the Subsurface Disposal of Sanitary Sewage”	\$100 for the first offense, \$200 for the second offense, and \$300.00, per day, for each subsequent offense, as authorized by M.G.L. c. 40, §21D and 310 CMR 11.10 (3)	Health Agent or Designated Representative
Section VI of the Illicit Discharge Detection and Elimination By-Law “Penalties for Violations”	\$100 for each dumping violation, and \$100 per day for discharge and direct connection violations, as authorized by M.G.L. c. 40, §21D	Board of Selectmen or Designated Representative

or to take any other action relative thereto.

BOARD OF HEALTH

FINANCE COMMITTEE RECOMMENDATION:

Acceptance of this article will set the amount of fines for failing to repair faulty septic systems and for the illicit dumping and discharge of waste. It will also designate the responsible enforcing agent. Similar changes were passed at the Annual Town Meeting of 2004 but the fee structure did not meet State guidelines and were rejected by the Attorney General's office.

Specifically the maximum fine for septic violations, as listed in Title 5, is \$500. The original proposal included fines up to \$500. However, the maximum fine under MGL Chapter 40, Section 21D, which allows municipalities to use non-criminal disposition as a method to enforce town by-laws, is limited to \$300.

Additionally, the original proposal (modeled after Title 5) included a range of penalties from \$10 to \$500. Under MGL Chapter 40, Section 21D, a specific penalty (or penalties) must be stated and a range of penalties is not allowed.

The Finance Committee vote was 9-0 in favor.

ARTICLE 16

To see if the Town will vote to transfer a sum of money from the Community Septic Management Program to the Septic System Improvement Loan Program Account; or to take any other action relative thereto.

TREASURER/BOARD OF SELECTMEN

FINANCE COMMITTEE RECOMMENDATION:

This article's intent is to transfer \$22,000 from Community Septic Management Program to the Septic System Improvement Loan Program Account.

The Finance Committee has had initial discussions on this issue but will make its recommendation at Town Meeting.

ARTICLE 17

To see if the Town will vote to accept and adopt as a public way the following:

1. Bramble Lane: beginning from Station 0+00, thence running easterly, a distance of 463.88 linear feet to station 4+63.88, its terminus.

or to take any other action relative thereto.

PLANNING BOARD

FINANCE COMMITTEE RECOMMENDATION:

This article is for the Town to adopt Bramble Lane as a public way. The Planning Board had not voted on this acceptance prior to the printing of the warrant.

The Finance Committee will make its recommendation at Town Meeting.

Hereof fail not, and make due return of this Warrant with your doings thereon, at the time and place of meeting aforesaid.

Given under our hands this 20th day of July, A.D., 2004

WALTER JOE ROACH, CHAIR

DAVID I. GRASFIELD

WILLIAM A. HEITIN

BOARD OF SELECTMEN
SHARON, MASSACHUSETTS

A True Copy: JOSEPH S. BERNSTEIN, Constable

Sharon, Massachusetts

Dated: 7/20/04

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